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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant : Jesse John Kiefer
Serial No. : 10/047,967
Filed : January 16, 2002
For : CENTERFILLED CHEWING GUM
CONTAINING A DELIVERABLE FORM OF
CALCIUM
Examiner : Arthur L. Corbin
Art Unit : 1761
Confirmation No. : 3892
Attorney Docket No. : A71-07LAV

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP RCE, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VIRGINIA 22313-1450

ON August 25, 2005

NAME Jill S. Garretson

SIGNATURE

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

August 25, 2005

RESPONSE

Dear Sir:

The following additional remarks are submitted in support of the patentability of the claims submitted on February 8, 2005, the entry of which has been requested with the filing of the present RCE.

The following remarks pertain to the Bell et al. reference (WO 00/06127) which has been cited against claims 1, 2 and 13-15 as anticipated and claims 4-9, 11, 16, 18, 19, 21-25, 27 and 29-33 as obvious. In addition, claims 10, 12, 26 and 28 were rejected over Bell in view of Cherukuri (U.S. Patent No. 4,352,823).

The Office Action states that the calcium in Bell is inherently uniformly dispersed in chewing gum due to the presence of the hydrocolloid. The minimum daily calcium amount can easily be obtained by chewing a sufficient number of the gum pieces. The rejection is hereby traversed and reconsideration is respectfully requested.

Bell discloses in the paragraph bridging pages 9 and 10 that nutraceuticals for use in the reference invention include botanicals, minerals and mineral salts. Calcium is specifically cited as a mineral and mineral salts include organic and inorganic salts of these minerals such as gluconate, acetate, chloride and sulfate. Bell also discloses a center fill chewing gum having a gum base free soft core and a hard outer shell containing gum base. With regard to where the mineral salt appears, reference is made to page 11, lines 4-12 where it is stated that the mineral is incorporated in the chewing gum shell (i.e. that portion of the center fill chewing gum containing the gum base).

As previously explained, the hard outer shell of a center fill chewing gum contains the chewing gum base and when calcium is placed therein, it is not

effectively available as a nutritional supplement. This is because the chewing gum base found in the outer shell binds the calcium and retains it within the gum base so that it cannot be released during a normal chewing cycle.

Thus, Bell teaches that mineral salts are contained within the outer shell and therefore within the chewing gum base. This teaching is consistent with the examples in which the mineral salt exemplified in the Examples (i.e. zinc) is always found in the outer shell portion of the composition.

It is noted on page 14, lines 4-8 that the Bell chewing gum composition may include fillers such as calcium carbonate. However, it is well known that fillers used in chewing gum compositions are used as an additive for the gum base to provide texture and softness [see the Cherukuri reference (U.S. Patent No. 4,352,823) at column 4, lines 37-48].

It is therefore apparent that Bell, while disclosing the addition of mineral salts to a chewing gum composition, does so only with that portion of the composition containing the gum base. Even in the instance where calcium carbonate is used as a filler, the fillers are likewise associated with the gum base for their texturizing and softening properties and are incorporated into the outer shell of the center fill chewing gum composition. Accordingly, Bell does not teach or suggest to one of ordinary skill in the art the incorporation of a non-water soluble or sparingly water soluble calcium-containing compounds such as calcium carbonate suspended in the center fill portion in order to provide at least the minimum daily nutritional amount of

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calcium to the user through the chewing of a reasonable number of pieces of chewing gum per day.

As previously indicated, some of the claims are rejected over the combination of Bell and Cherukuri. However, Cherukuri does not disclose a center fill chewing gum composition as that term is employed in the present invention.

Cherukuri discloses a coextruded chewing gum which includes an extruded center portion surrounded by and bonded to an extruded outer shell portion. As indicated in column 2, beginning at line 45, the core portion includes a non-styrene-butadiene gum base. Further details for the gum base used in the soft core portion are set forth beginning at the top of column 3.

Thus, the core portion of Cherukuri includes a gum base. The core portion of the center fill in the present invention does not include a gum base. As explained above, the presence of gum base tends to trap or bind insoluble or sparingly soluble calcium salts making them unavailable as a calcium supplement. Thus, Cherukuri when combined with Bell does not provide a center fill chewing gum containing available calcium in the core portion.

It is therefore submitted that the present application is in condition for allowance and early passage to issue is therefore deemed proper and is respectfully requested.

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It is believed that no fee is due in connection with this matter. However, if any fee is due, it should be charged to Deposit Account No. 23-0510.

Respectfully submitted,



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